IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Central Excise Appeal No.207 OF 2006.

The Commissioner of Central
Excise & Customs, Vapi ..Appellant

versus

M/s. Vishesh Dhatu Industries,
Silvassa (D & NH) ..Respondent.

Mr.R.V.Desai, Sr. Counsel with Mr.K.R.Chaudhari,
R.C.Master and Mr.H.P.Chaturvedi for the Appellant

Mr.Vipin Jain with Mr.P.K.Shetty for the respondent.

Coram : F.I.Rebello &
S.R.Sathe, JJ.
Dated : 16th August, 2007

P.C.

1. This is an appeal by Revenue. The questions of law are been framed at page 7 of the appeal memo. We have heard the parties and considered the impugned order.

2. We take judicial notice of the fact that several orders have come before us in which there is absolutely no discussion as to why the tribunal has arrived at the conclusion it has arrived. Findings of facts have been recorded by the lower authority.

The said findings have not been disturbed by any reasons and orders are being passed. In the instant case the question is whether there is discretion in the Tribunal to impose the penalty, that has not been answered. In our opinion, once the order of the Tribunal is the subject matter of the appeal before us, this court must have the benefit of the reasons as to how the Tribunal has arrived at the decision of allowing or dismissing the appeal.

3. It is unfortunate that the Tribunal whose orders are subject to appeal, and over which this court exercises supervisory jurisdiction are passing orders which leaves this court clueless as to the basis on which the opinion has been arrived at. We, therefore, set aside the order with a direction to the Tribunal to record the reasons while arriving at a decision.

4. We may only draw the attention of the learned Tribunal to the judgment of the Supreme Court in Coats Viyella India Ltd. vs. Commissioner of Central Excise reported in 2004(173) E.L.T. 229 (S.C.)

5. In the light of that the impugned order is set aside. The matter is remanded back to the Tribunal for deciding on its own merits.

6. The appeal is allowed accordingly with no order as to costs.

(F.I.Rebello, J.)

(S.R.Sathe, J.)